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Docket No.: 1793.1100

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Chekcheyev SERGEY et al

Serial No. 10/721,782

Group Art Unit: 2627

Confirmation No. 5090

Filed: November 26, 2003

Examiner: Adam GIESY

For: EQUALIZER FOR HIGH DENSITY OPTICAL DISC REPRODUCING APPARATUS AND  
EQUALIZING METHOD THEREFOR

**RESPONSE TO RESTRICTION REQUIREMENT**

Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

Sir:

This is responsive to the Office Action mailed October 3, 2006, having a shortened period for response set to expire on November 3, 2006, the following remarks are provided.

I. Provisional Election of Claims Pursuant to 37 CFR §1.142

Applicants provisionally elect Group I, claims 1-28 in response to the preliminary restriction requirement set forth in the Office Action.

II. Applicants Traverse the Requirement

Insofar as Group II is concerned, it is believed that claims 29-34 are so closely related to elected claims 1-28 that they should remain in the same application. The elected claims 1-28 are directed to an equalizer for a high density optical disc reproducing apparatus and an equalizing method for a high density optical disc reproducing apparatus and claims 29-34 are drawn to an equalizing method for a reproducing apparatus of a high density optical recording medium and a reproducing apparatus for a high density optical recording medium. There have been no references cited to show any necessity for requiring restriction and, in fact, it is believed that the Examiner would find references containing both method and apparatus claims in the

same field of technology.

Furthermore, it is noted that the Examiner has no identified different classifications for the method and apparatus claims, and even if the Examiner were to have identified different classifications, it is believed that classification is not conclusive on the question of restriction.

It is believed, moreover, that evaluation of both sets of claims would not provide an undue burden upon the Examiner at this time in comparison with the additional expense and delay to Applicants in having to protect the additional subject matter recited by the Group II claims by filing a divisional application.

MPEP § 803 sets forth the criteria for restriction between patentably distinct inventions. (A) indicates that the inventions must be independent (see MPEP §802.01, §806.04, §808.01) or distinct as claimed (see MPEP §806.05-806.05(i)); and (B) indicates that there must be a serious burden on the Examiner if restriction is required (see MPEP §803.02, §806.04(a)- §806.04(i), §808.01(a) and §808.02). The Examiner has not set forth why there would be a serious burden if restriction is required.

### III. Conclusion

Upon review of references involved in this field of technology, when considering that the method and apparatus recited by the Group II claims is directed to an equalizing method for a reproducing apparatus of a high density optical recording medium and a reproducing apparatus for a high density optical recording medium, and elected claims 1-28 are directed to an equalizer for a high density optical disc reproducing apparatus and an equalizing method for a high density optical disc reproducing apparatus, and when all of the other various facts are taken into consideration, it is believed that upon reconsideration of the Examiner's initial restriction requirement, all of the pending claims should be examined in the subject application.

In view of the foregoing amendments, arguments and remarks, all claims are deemed to be allowable and this application is believed to be in condition for allowance.


If any further fees are required in connection with the filing of this Amendment, please charge the same to our deposit account number 503333.

Should any questions remain unresolved, the Examiner is requested to telephone Applicants' attorney.

Respectfully submitted,

STEIN, MCEWEN & BUI, LLP

Date: 11/1/06

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